

## **REMARKS**

Reconsideration and withdrawal of the final rejection is respectfully requested in view of the foregoing amendments and the following remarks.

Concerning initially the 112 rejection, by this Preliminary Amendment, the recitation in Claim 21 relative to the two sets of four fingers and the rectangular tray being formed of a single unitary member has been deleted. The resilient fingers are each now defined as being formed "as a single unitary member". Claim 18 has been appropriately amended to define each of the four fingers being made of a single unitary member, as well.

In addition, Claims 18 and 21 have been further amended to define the V-shaped fingers as each defining an obtuse angle therebetween, support for which can be seen in Fig. 1. This obtuse angle allows the fingers to be depressed more easily by the cup being inserted into the holder. As will be discussed in greater detail hereinafter, it is respectfully submitted that the prior art neither discloses nor suggests this novel combination of features.

At the outset, Applicant wishes to bring to the Examiner's attention a recent article in Newsday dated May 31, 2004, in which there was reference to the fact that it was difficult to "try jamming one of those square bottles into your car's cup holder". This merits attention since it goes to the issue of the present invention that current cup holders are not designed to hold both round and square containers. It is respectfully submitted that it is only through hindsight reasoning that the prior art can

be constructed in such a fashion as to duplicate Applicant's invention. In any event, the prior art relied upon by the Examiner does not disclose or suggest the invention as now claimed.

In particular, as noted above, the claims now define the use of V-shaped resilient fingers made of one piece which define an obtuse included angle. On the other hand, the German reference discloses fingers having an included acute angle. The obtuse angle and the provision of V-shaped fingers in this form allow for a more gradual displacement thereof when the cup is inserted. The use of both the integrally formed resilient fingers, each having a V-shaped profile with an obtuse included angle is neither disclosed nor suggested by the references relied upon by the Examiner either applied alone or in combination.

Finally, Applicant hereby requests a three-month extension of time in which to respond to the outstanding Office Action. Credit Card payment form PTO-2038 in the amount of \$1,700.00 is enclosed to cover the USPTO official filing fees (\$770.00 for **Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CRF 1.137(b)**; \$405.00 for **Request for Continued Examination**; and \$525.00 for **three month extension of time**). The Commissioner is hereby authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 50-3990.

Accordingly, reconsideration and withdrawal of the rejection and allowance of the claims at an early date is earnestly solicited.

Respectfully submitted,

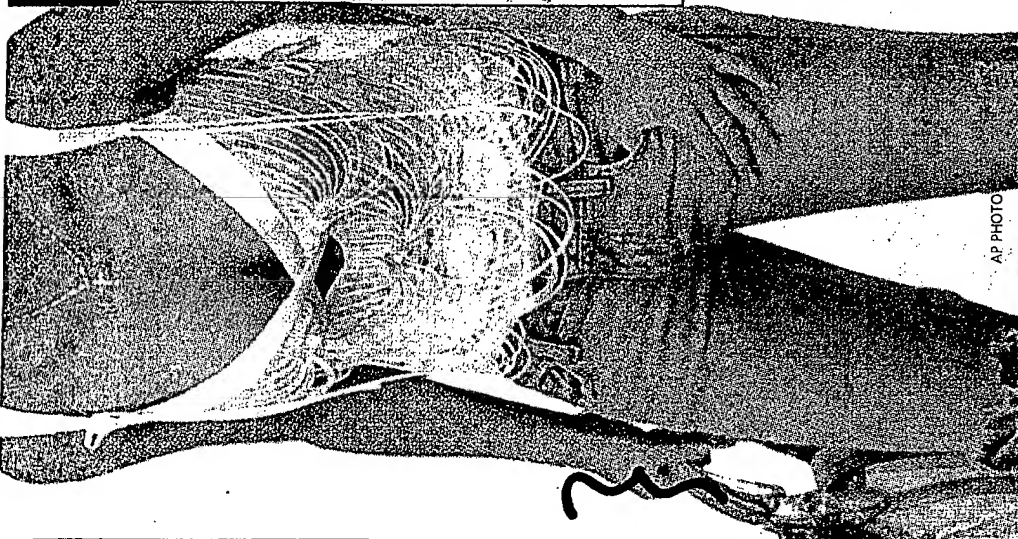
JOSEPH E. PORCELLI



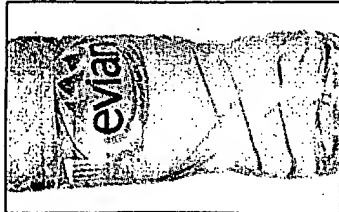
---

Thomas M. Galgano 27,638  
GALGANO & ASSOCIATES, PLLC  
Attorney's for Applicant  
20 W. Park Avenue, Suite 204  
Long Beach, New York 11561  
Tel: (516) 431-1177  
Fax: (516) 431-1127

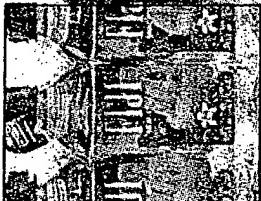
TMG/jgg  
Enclosure: Newsday Article  
F:\G&b\1310\2\preliminaryamend2.wpd



AP PHOTO



**Water**  
**Hot:** Evian's "Re-naissance" bottle has grips, so you can hold it when you're running or dancing.  
**Not:** Fiji. Try jamming one of those square bottles into your car's cup holder.



**Beaches**  
**Hot:** Georgia in East Hampton, right, a perennial fave. And Sagaponack, because where else would you do yoga at sunrise?  
**Not:** Wyandanch Beach in Southampton. Will sun worshipers be put off knowing a jogger was sexually assaulted there in mid-May, just steps from the toniest of million-dollar mansions?

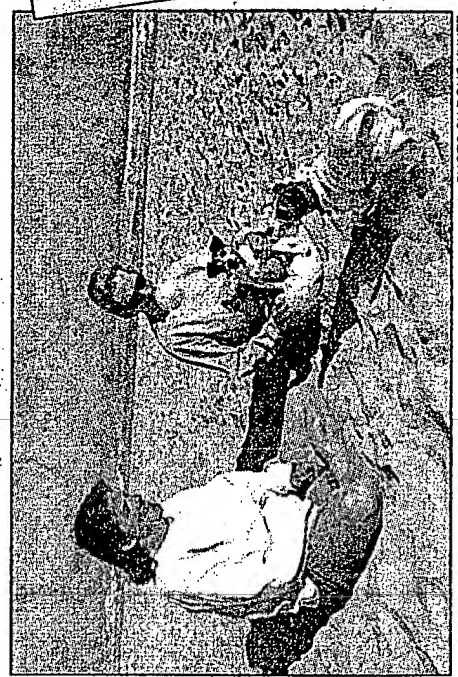
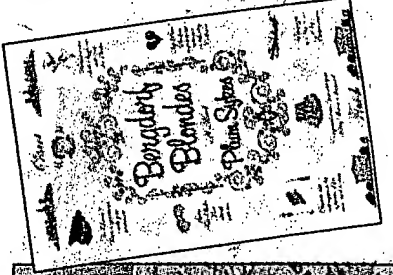
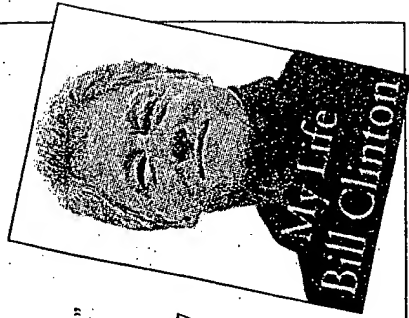


PHOTO BY DOUG KUNTZ



**Beach reads**  
**Hot:** "Bergdorf Blondes," by Plum Sykes. We loved the lingo like "ana" — short for anorexic — to describe the "perfect" body, and "A.T.M." to signify a rich boyfriend.  
**Not:** "My Life," by Bill Clinton. Yeah, we miss the guy, too, but at \$35 a pop and 957 pages, don't count on us jugging this to the beach. The publisher says it also will be released in large print. We assume that edition comes with a personal trainer.



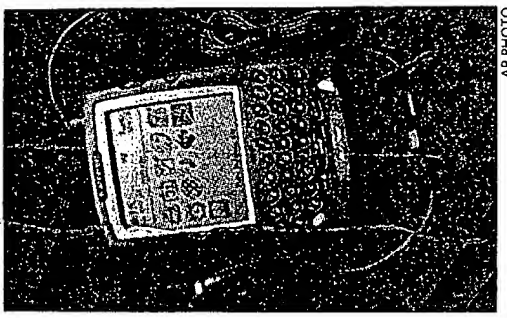
GETTY IMAGES PHOTO

**Celebrities**

**Hot:** Lindsay Lohan, left. She's underage, but who else would club owners hope to see at their venues this summer? The Merrick native and "Mean Girls" star hit nearly a dozen Manhattan parties during one week in May, so she's certainly proved she has the stamina.  
**Not:** Tara Reid, right. She's all over the place. We loved the stint on "Scrubs," Tara, but what have you done for us lately?



AP PHOTO



**Gadgets**  
**Hot:** T-Mobile's new Danger Sidekick comes out in June and this version adds a speakerphone. . . . We're also high on in-car DVDs. Because when Route 27 shifts from two lanes to one near Southampton, you're gonna need something to occupy your time.  
**Not:** Assorted Blackberries, right. Yes, we adore the all-in-one phone and e-mail concept, but there's still no Instant Messenger and — *sacre bleu!* — it's incompatible with the Mac.

**Restaurants**

**Hot:** Alison, now in Bridgehampton. Cookbook author and former Manhattan restaurateur Alison Hurt moves from Sagaponack into Bridgehampton, at the former 95 School Street. Her new chef will introduce tapas, right, and elements of Spanish cuisine to the Hamptons. Olé!



Also, Jeff & Eddie's, Sag Harbor. The spot where Billy Joel found his fiancée last year is now serving breakfast.  
**Hot:** Cooking for your lazy roommates. After a couple of seasons of austerity, bigger bonuses mean dining out is likely to once again become a competitive sport.

Also, Rocco's in Sag Harbor. With namesake Rocco Ancarola now part of the Star Room team, could he be spread too thin?

"Von Butcl."